



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2021-0031]

Petition for Waiver of Compliance and Extension of Comment Period

On April 22, 2021, the Federal Railroad Administration (FRA) published notice of its receipt of a petition dated March 9, 2021, from Union Pacific Railroad Company (UP) requesting a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR parts 215 (Railroad Freight Car Safety Standards) and 232 (Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-Of-Train Devices). FRA assigned the petition Docket Number FRA-2021-0031.¹

As noted in FRA's April 22, 2021, notice, UP requested relief from 49 CFR 215.13, *Pre-departure inspection*, which requires an inspection when combining two separate consists including one or more cars and one or more locomotives that have been properly inspected and tested in compliance with all applicable regulations (i.e., both consists have had a Class I brake test (§ 232.205), Class IA brake test (§ 232.207), or have been designated as extended haul trains and are compliant with all requirements of § 232.213). UP states that the requested relief will allow combining two existing and operating trains without additional inspections, besides a Class III brake test. It further states that the relief will allow subsequent separation of two trains without additional

¹ FRA notes that UP submitted 3 separate petitions to the docket of this proceeding. The first petition was dated February 24, 2021 (available at <https://www.regulations.gov/document/FRA-2021-0031-0001>). UP submitted a revised petition dated March 9, 2021 (available at <https://www.regulations.gov/document/FRA-2021-0031-0002>). Finally, UP submitted a third petition (also dated March 9, 2021) (available at <https://www.regulations.gov/document/FRA-2021-0031-0004>). UP's third petition corrected minor errors in its earlier petitions as UP explained in separate correspondence. That correspondence is Document No. FRA-2021-0031-0005 in the docket to this proceeding (available at <https://www.regulations.gov/document/FRA-2021-0031-0005>). FRA is considering and will respond to UP's third petition (Document No. FRA-2021-0031-0004).

inspections, besides a Class III brake test, provided that a record of the original consist remains intact. Although not explicitly referenced in FRA's April 22, 2021, notice, FRA notes that to accomplish the combining and subsequent separation of two existing and operating trains without additional inspections (besides a Class III brake test), UP also requests relief from the requirements of 49 CFR 215.13(b) (pre-departure inspection) and § 232.205 (class I brake test-initial terminal inspection) on the combined and subsequently separated trains.

FRA's April 22, 2021, notice provided a 45-day public comment period (ending June 7, 2021) on UP's request for relief. Subsequent to publication of that notice, in a letter dated May 21, 2021, the Transportation Trades Department, AFL-CIO (TTD) requested that FRA extend the comment period pending FRA's clarification of certain questions related to UP's request for relief. Specifically, TTD asked if UP's request affects end-of-train (EOT) device inspections and inspections related to positive train control. TTD asked if "there are any other pre-departure inspections/duties performed on a locomotive that will be included in this waiver, including 236.587 departure tests." In response to TTD's request for clarification, FRA notes that UP's request for relief is limited to two FRA regulatory requirements – the inspection and test requirements of 49 CFR 215.13 (pre-departure freight car inspection) and § 232.205 (Class I brake test-initial terminal inspection) for trains that have been combined and then subsequently separated as outlined in UP's petition. UP has not requested relief from, and FRA is not considering granting relief from, any other regulatory requirements other than §§ 215.13 and 232.205 under the specific circumstances outlined in UP's March 9, 2021, petition.

A copy of UP's petition, as well as all written communications concerning the petition, is available for review online at www.regulations.gov.

In response to TTD's request, FRA is extending the comment period in this waiver proceeding for an additional 30 days.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Fax: 202-493-2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation (DOT), 1200 New Jersey Ave., SE, W12-140, Washington, DC 20590.

Communications received by July 7, 2021, will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of www.regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety,
Chief Safety Officer.

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